
A BILL FOR AN ACT

RELATING TO MEDICAL RELEASE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

PART I

SECTION 1. Section 346-29, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) No applicant or recipient who is found guilty of fraudulently misrepresenting residence to obtain assistance in two or more states shall be entitled to public assistance under this chapter for ten years from date of conviction. No applicant or recipient shall be entitled to public assistance under this chapter who is a fugitive felon or who is in violation of a condition of probation or parole or has sufficient income or other resources to provide a standard above that provided in this chapter, or who is an inmate of any public institution, except that any inmate of a public institution who is otherwise eligible for medical assistance and who has been determined by the medical director of the institution as having a major illness or medical condition requiring the provision of medical care outside of the institution may receive assistance



1 under this chapter. An inmate of a public institution or
2 resident of a medical institution may apply for assistance to
3 begin after the inmate's discharge from the institution. An
4 inmate of a public institution who is on medical release
5 pursuant to subpart B of part II of chapter 353 shall be
6 presumed eligible to receive medical assistance. To enforce
7 this subsection, the department shall examine each list of
8 inmates within, or newly admitted to, a correctional facility in
9 the State that is submitted to the department by the director of
10 public safety pursuant to section 353-12.5, regardless of the
11 nature of the offense for which an inmate is incarcerated or the
12 duration of incarceration, to determine whether an inmate is
13 eligible for public assistance under this chapter."

14 PART II

15 SECTION 2. An ever increasing number of men and women are
16 entering prison with serious medical illnesses, and many face
17 the risk of developing a serious illness or disability,
18 particularly prisoners with long mandatory sentences. Long
19 sentences and an aging prison population mean that correctional
20 facilities in this State and across the United States are
21 housing a growing number of elderly inmates who often have



1 extensive medical needs. Concern over how society should deal
2 with the aging and seriously ill prison population has led
3 policy makers in many states to endorse early release for older
4 and seriously ill prisoners who pose a low risk to public
5 safety. Presently, the United States federal prison system and
6 many states grant some kind of medical or compassionate release.

7 Compassionate release provides physicians and other medical
8 professionals an opportunity to use their unique expertise and
9 knowledge of prognosis, geriatrics, cognitive and functional
10 decline, and palliative medicine to ensure that medical criteria
11 for compassionate release are appropriately evidence-based.
12 With this information, criminal justice professionals are able
13 to better determine whether or not an inmate should be granted
14 medical release.

15 Compassion is an integral part of the aloha spirit. The
16 purpose of this part is to create a medical or compassionate
17 release program for certain ill, disabled, and geriatric inmates
18 who pose a low risk to public safety.

19 SECTION 3. Chapter 353, Hawaii Revised Statutes, is
20 amended by adding a new section to part I to be appropriately
21 designated and to read as follows:



1 "§353- Medical release program. The department shall
2 assess and refer inmates to the Hawaii paroling authority for
3 possible medical release as provided in subpart B of part II."

4 SECTION 4. Chapter 353, part II, Hawaii Revised Statutes,
5 is amended by designating sections 353-61 to 353-72 as subpart
6 A, entitled "Hawaii Paroling Authority; General Provisions".

7 SECTION 5. Chapter 353, Hawaii Revised Statutes, is
8 amended by adding a new subpart to part II to be appropriately
9 designated and to read as follows:

10 **"B. Medical Release Program**

11 **§353- Definitions.** For the purpose of this subpart:

12 "Continuity of care" means an integrated system that
13 ensures that a patient's medical needs are met as the patient
14 transitions from one health care provider to another, from one
15 setting to another, and from one level of care to another.

16 "Debilitating disease or illness" means a persistent or
17 progressive illness that impedes a patient's mental or physical
18 capacities and compromises that patient's quality of life.

19 "Inmate" means any person committed to the custody of the
20 director.



1 "Medical release" means the release of an inmate before the
2 expiration of the inmate's sentence due to the inmate's medical
3 condition.

4 "Medical release plan" means a comprehensive, written
5 medical and psychosocial care plan that is specific to the
6 inmate and that, at a minimum, shall include:

- 7 (1) A recommended course of treatment for the inmate; and
8 (2) A plan to provide continuity of care as the inmate
9 transitions from prison to the community.

10 "Reasonable medical probability" means that a medical
11 outcome is more likely to occur than not to occur.

12 "Terminal illness" means a progressive and incurable
13 medical condition that is expected to result in death.

14 **§353- Medical release program; authority to release;**
15 **rules.** (a) An inmate may be considered for medical release if
16 the inmate:

- 17 (1) Has a terminal illness with a predictably poor
18 prognosis;
19 (2) Has a seriously debilitating and irreversible mental
20 or physical condition that impairs the inmate's



1 functional ability to the extent that they would be
2 more appropriately managed in a community setting;

3 (3) Is too ill or cognitively impaired to participate in
4 rehabilitation or to be aware of punishment; or

5 (4) Has a disease or condition that requires a complexity
6 of treatment or a level of care that the department is
7 unable to provide on a long-term basis.

8 (b) All requests for medical release shall be in writing
9 and shall be made to the Hawaii paroling authority. Requests
10 may be made by the director, an inmate, or an inmate's
11 representative.

12 (c) If a request for medical release is made by the
13 director, the request shall contain the following information:

14 (1) A report from a department physician stating whether
15 the inmate meets the criteria for medical release and
16 the basis for the physician's opinion; provided that
17 the report shall state each diagnosis that applies to
18 the inmate and the prognosis for each condition to a
19 reasonable medical probability; provided further that,
20 where practicable, the physician shall discuss the
21 results of any tests, studies, or physical findings



1 that support the diagnosis and prognosis, and the
2 nature and extent of the medical treatment that will
3 most likely be required to manage the inmate's
4 condition while incarcerated within the standard of
5 care. Where appropriate, the physician shall provide
6 citations to relevant medical literature;

7 (2) A written evaluation prepared by the director on the
8 risk for violence and recidivism, if any, that the
9 inmate poses to society in light of such factors as
10 the inmate's medical condition, the severity of the
11 offense for which the inmate is incarcerated, the
12 inmate's prison record, and the medical release plan;
13 and

14 (3) A medical release plan that provides for continuity of
15 care.

16 The department shall provide the inmate with a copy of the
17 director's medical release request.

18 (d) If a request for medical release is made by an inmate
19 or the inmate's representative, the request shall state the
20 grounds for the requested release and shall contain a statement



1 as to where the inmate would reside if released, who would care
2 for the inmate, and how the inmate plans to obtain medical care.

3 All requests initiated by an inmate or an inmate's
4 representative shall be immediately referred to the director.
5 Within twenty days of receiving the request, the department
6 shall submit a medical release report to the Hawaii paroling
7 authority containing the information required in subsection (c).
8 The department shall provide the inmate with a copy of the
9 medical release report.

10 (e) The Hawaii paroling authority shall conduct a hearing
11 on all requests for medical release. The hearing shall be held
12 within ten days of receiving a medical release report from the
13 department. The inmate and the inmate's representative shall be
14 permitted to participate in the hearing and may submit medical
15 and other evidence in support of the request. The paroling
16 authority shall independently determine whether the inmate meets
17 the criteria for medical release and shall independently assess
18 the risk for violence and recidivism, if any, that the inmate
19 poses to society. The paroling authority shall also provide the
20 victim of the criminal act for which the inmate was sentenced,
21 or the victim's family, with the opportunity to be heard. The



1 paroling authority shall grant or deny the request within two
2 days following the hearing.

3 (f) The Hawaii paroling authority shall not grant medical
4 release to an inmate who poses a danger to society.

5 (g) A denial of medical release by the Hawaii paroling
6 authority shall not affect an inmate's eligibility for any other
7 form of parole or release under applicable law; provided that
8 the inmate may not reapply or be reconsidered for medical
9 release unless there is a demonstrated change in the inmate's
10 medical condition.

11 (h) The director shall appoint an advocate for any inmate
12 who requests medical release and is unable, due to
13 incapacitation or debilitation, to advocate on the inmate's own
14 behalf.

15 (i) The department shall adopt a fast track procedure for
16 the evaluation and release of rapidly dying prisoners; provided
17 that the procedure shall be posted on the website of the
18 department and the Hawaii paroling authority.

19 (j) Medical release shall not be considered a reduction of
20 a minimum sentence and the sixty-day notice requirement of
21 section 706-669(5) shall not apply to any medical release;



1 provided, however, that the department shall give the
2 prosecuting attorney of the appropriate county notice of all
3 requests for medical release as soon as practicable after a
4 request is initiated, and the prosecuting attorney shall be
5 permitted to participate in any medical release hearing
6 conducted by the Hawaii paroling authority.

7 (k) The department shall adopt rules pursuant to chapter
8 91 to implement the medical release program.

9 **§353- Conditions of a medical release.** The Hawaii
10 paroling authority shall set reasonable conditions on an
11 inmate's medical release that shall apply through the date upon
12 which the inmate's sentence would have expired. The conditions
13 shall include the following:

- 14 (1) The released inmate shall be subject to supervision by
15 the paroling authority;
- 16 (2) Personnel of the department shall be allowed to visit
17 the inmate at reasonable times at the inmate's home or
18 elsewhere; and
- 19 (3) The released inmate shall comply with all conditions
20 of release set by the paroling authority.



Report Title:

Corrections; Medical Release Program; Compassionate Release;
Medical Assistance

Description:

Creates a medical release program within the Department of
Public Safety for certain ill, disabled, and geriatric inmates
who pose a low risk to public safety. (HB629 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is
not legislation or evidence of legislative intent.*

